

## Small Business Administration

## § 120.432

### **§ 120.426 What action will SBA take if a securitizer transfers the subordinated tranche prior to the termination of the holding period?**

If a securitizer transfers the subordinated tranche prior to the termination of the holding period, SBA will suspend immediately the securitizer's ability to make new 7(a) loans. The securitizer will have 30 calendar days to submit an explanation to SBA's Securitization Committee ("Committee"). The Committee will have 30 calendar days to review the explanation and determine whether to lift the suspension. If an explanation is not received within 30 calendar days or the explanation is not satisfactory to the Committee, SBA may transfer the servicing of the applicable securitized loans, including the securitizers' servicing fee on the guaranteed and unguaranteed portions and the premium protection fee on the guaranteed portion, to another SBA participating Lender.

### **§ 120.427 Will SBA approve a securitization application from a capital impaired Securitizer?**

If a securitizer does not maintain the level of capital required by this subpart, SBA will not approve a securitization application from that securitizer.

### **§ 120.428 What happens to a securitizer's other PLP responsibilities if SBA suspends its PLP approval privilege?**

The securitizer must continue to service and liquidate loans according to its PLP Supplemental Agreement.

## OTHER CONVEYANCES

SOURCE: Sections 120.430 through 120.435 appear at 64 FR 6509, 6510, Feb. 10, 1999, unless otherwise noted.

### **§ 120.430 What conveyances are covered by §§ 120.430 through 120.435?**

Sections 120.430 through 120.435 cover all other transactions in which a Lender sells, sells a participating interest in, or pledges an SBA guaranteed loan other than for the purpose of securitizing and other than conveyances covered under Subpart F, Secondary Market, of this part.

### **§ 120.431 Which Lenders may sell, sell participations in, or pledge 7(a) loans?**

All Lenders may sell, sell participations in, or pledge 7(a) loans in accordance with this subpart.

### **§ 120.432 Under what circumstances does this subpart permit sales of, or sales of participating interests in, 7(a) loans?**

(a) A Lender may sell all of its interest in a 7(a) loan to another Lender operating under a current Loan Guarantee Agreement (SBA Form 750) ("participating Lender"), with SBA's prior written consent, which SBA may withhold in its sole discretion. A Lender may not sell any of its interest in a 7(a) loan to a nonparticipating Lender. The purchasing Lender must take possession of the promissory note and other loan documents, and service the sold 7(a) loan. The purchasing Lender purchases the loan subject to SBA's existing rights including its right to deny liability on its guarantee as provided in §120.524. After purchase, the purchased loan will be subject to the purchasing Lender's Loan Guarantee Agreement.

(b) A Lender may sell, or sell a participating interest in, a part of a 7(a) loan to another participating Lender. If the Lender retains ownership of a part of the unguaranteed portion of the loan equal to at least 10 percent of the outstanding principal balance of the loan, the Lender must give SBA prior written notice of the transaction, and the Lender must continue to hold the note and service the loan. If a Lender retains ownership of a part of the unguaranteed portion of the loan equal to less than 10 percent of the outstanding principal balance of the loan, the Lender must obtain SBA's prior written consent to the transaction, which consent SBA may withhold in its sole discretion. The Lender must continue to hold the note and other loan documents, and service the loan unless SBA otherwise agrees in its sole discretion.

(c) For purposes of determining the percentage of ownership a Lender has retained, SBA will not consider a Lender to be the owner of the part of a loan